

Timor-Leste Country Notebook 2013

Timor-Leste Takes One Step Forward And Two Steps Back On Corruption

By Julio Gil da Silva Guterres*

After years of violent occupation and transition to independence, Timor-Leste became a sovereign country in 2002. It has changed governments democratically two times since, and it has come to recognize that ensuring accountability is necessary for achieving national development objectives.

At the same time, cases of corruption at the highest levels of the government seem prevalent and the government's approach to corruption is more ambivalent than ever. Though the independent

Anti-Corruption Commission was created in 2010, the anti-corruption draft law has been stuck in Parliament for four years. An impending media law threatens to restrict independent journalism, and the need for anti-corruption champions is more visible than ever.

Nepotism's Claws. The string of high-level corruption scandals started in the family of the "father" of development in the country. Known by his nom de guerre Kay Rala Xanana Gusmao, or simply Xanana Gusmao, Jose Alexandre Gusmao is a longtime guerrilla leader, a poet and a warm, casual and charismatic leader. He was also the first president of Timor-Leste (2002-2007) and has been the prime minister since 2007.

In 2008, the weekly Tempo Semanal leaked documents showing Gusmao awarded a \$3.5 million contract to the Prima Food company to import rice to Timor-Leste. His daughter, Zenilda Emilia Baptista Gusmao, was a major shareholder (11 percent share) of the company. The Statute of the Holders of Sovereignty Bodies forbids the prime minister to sign off on contracts with a company in which a family member has more than a 10 percent stake.

Gusmao eventually explained that his daughter had given up her shares in Prima Foods two months before the contract was signed. The case was one of the most controversial issues of Gusmao's government, and the opposition party Fretilin demanded his resignation.

Some of Gusmao's Cabinet would later become embroiled in their own corruption or nepotism scandals.

In Timor-Leste, tracing when ministers and secretaries of state award government projects to relatives is not too difficult because the country has a population of just 1.22 million. Nepotism in government procurement became visible to the public again in 2008 when veteran journalist Jose Antonio Belo, from Tempo Semanal, published detailed transactions between then-Justice Minister Lucia Lobato and several business associates for the rebuilding of a prison wall and the supply of prison guard uniforms.

Lobato was convicted of corruption in 2012 and received an incarceration sentence of five years and US\$4,325 in fines for the US\$1 million deal to purchase prison equipment that involved her husband, Americo Lopes. Rather than resign when the series of stories was published, Lobato brought criminal charges against Belo for criminal defamation. The case against him was eventually dropped.

Another scandal involving a minister emerged in 2012, when Emilia Pires, minister of planning and finance, was accused of steering a US\$900,000 government contract to Australian company Mac's Metalcraft. The firm was founded, owned and

Peer Review Comments

Reviewer 4088:

This article is generally accurate, but focuses cases of relatively high-level people formally or informally accused of misusing public funds, leaving out underlying causes. Timor-Leste has a rentier ...

[More](#)

Reviewer 4090:

The report accurately describes legal and political setting that has enabled rampant corruption in Timor-Leste, particularly among public officials. Weak state institutions and rule of law become obst...

[More](#)

Reviewer 4093:

The analysis is clearly relevant. To the extent that the context is described it is clear, but the question of how these decisions are able to be approved calls into question the whole process of gove...

[More](#)

[All reviewer comments](#)

directed by her husband, Warren McLeod, and was contracted to supply medical equipment to Dili's national hospital. The accusation caused public shock because Pires had served since the first coalition government of Timor-Leste.

Questioned by the media in 2013, Pires gave a standard response. She said that she was ready to face the court and that she has faced other allegations against her in the past, albeit without any evidence. Pires is currently (2014) being investigated by the Anti-Corruption Commission and the Office of Public Prosecution. Prosecutor General Jose da Costa Ximenes confirmed his office's investigation and said he plans to bring it to court as soon as possible. Pires is now settled in Australia, citing "health reasons."

The public prosecutor quickly became busy with another former member of Gusmao's Cabinet,

Gil da Costa Alves, who was the minister for tourism, commerce and industry. In early 2013, Alves was accused of criminal fraud, embezzlement and financial misappropriation for allegedly using US\$195,000 belonging to his political party (Associação Social-Democrata Timorese, or ASDT) for personal benefit when he served as the party's secretary-general. He was later freed from court charges, but the prosecutor general is appealing the decision. Alves had been appointed minister by the 2007 Gusmao-led government through a coalition of minor parties, including ASDT.

Timor-Leste's public prosecutor also has brought to court the former education minister, Joao Cancio Freitas, on a number of allegations. The most substantial one refers to sole discretion in giving a US\$2 million contract to an Australian electronic equipment company, Larekia, to supply educational TV equipment. According to the Anti-Corruption Commission, the government paid for new equipment but received secondhand equipment. Arlindo Dias Sanches, Freitas' legal counsel, has said his client was not involved in any fraud with the company. The court has postponed the case because of the absence of two key witnesses.

Francisco Borlaco da Costa Soares, current secretary of state for institutional strengthening, continues in his position even though Parliament agreed to remove his immunity and, in 2014, a court convicted him of abuse of power and sentenced him to two years of imprisonment (suspended). The suspension of the sentence allows him to continue in his post.

Borlaco da Costa Soares was accused of fraud in a tender process for the purchase of trucks meant to facilitate a school-feeding program by the Ministry of Education. The proposed budget for purchasing the trucks was US\$90,000, but there was a significant difference between the allocated budget and the invoice provided by Sinarias Company. Borlaco da Costa Soares signed the budget when he was still the director-general for the Ministry of Planning and Finance during the first Gusmao coalition government.

A Busy Anti-Corruption Commission. One good outcome, when considering the series of cases, is that the Anti-Corruption Commission seems to be slowly taking to its role as a key instrument for the country to tackle corruption and nepotism. Still, local experts agree that the weaknesses of the commission, which was created in 2010, continue to be one of the important challenges for the country to consolidate its democracy.

Jose da Costa Ximenes, the prosecutor general of the republic, said in April 2014 during his annual report to Parliament that 12 cases of corruption were not properly investigated and went to court without sufficient evidence.

Juvinal Dias, a budget analysis researcher from La'o Hamutuk Institute, agreed with the prosecutor general. "There are some limitations for the CAC to work against the corruption. Due to the absence of an anti-corruption law, it's hard for the CAC to define its investigation abilities in approaching corruption, but there are a few examples showing how it has been working very hard to bring the high-ranked politicians to court," he said.

La'o Hamutuk ("Walking Together" in English) is an independent Timor-Leste civil society organization that monitors and analyzes key economic and social development issues.

Therese Nguyen Thi Phuong Tam, lecturer at Faculty of Social Science, National University of Timor-Leste, considers it essential that the commission be granted more authority when conducting investigations. Otherwise, it will continue to face an environment where members of government "are not brave enough to point fingers at each other," regardless of the public commitments they may make to fight corruption.

Lack of Resources and Power. Francisco Agostinho Pinto, legal adviser to the Anti-Corruption Commission, agrees that the organization has constraints. "The commission does have its limitations, both in human resources and legal powers. It

has only 15 investigators with little experience on investigating corruption. In addition, the lack of an anti-corruption law also affects the strength of the commission.”

The Ombudsman of Human Rights and Justice, previously responsible for a broad range of corruption activities, is now primarily focused on human rights. The Internal Audit Authority is spread among the Office of the Inspector General (within the Ministry of Finance) and internal audit bodies in the ministries.

Although Timor-Leste signed the United Nations Convention Against Corruption in 2003, it only ratified the agreement in 2008. In April 2009, Timor-Leste enacted its penal code, which defines some corruption-related crimes. The prosecutor general drafted an anti-corruption law, which was brought to Parliament in October 2010 and needed fine-tuning. Nearly four years later, the draft has not been discussed in the plenary for approval.

Far from supporting an enabling environment for independent, investigative journalism, Parliament recently passed a media law that has been decried by local and international organizations as one of the most restrictive in the world. If the legislation is signed by Timor-Leste’s president, Taur Matan Ruak, a new press council would have the power to impose fines and jail on journalists.

Other regulations would severely limit who could qualify as a “journalist” and would discourage investigative journalism from overseas, since foreign reporters would require government approval. Belo, the investigative journalist who revealed Lobato’s case and was initially threatened with jail, has said to international media organizations that the law seeks to help the government “protect itself from media scrutiny and the scrutiny of the people.” Citizen journalism and other uses of social media would also be restricted. At the time of writing, the president sent the law to the Supreme Court for legal advice.

The government’s modest interest in strengthening anti-corruption institutions is also visible in the slow process to appoint the new head of the Anti-Corruption Commission. The previous commissioner, Aderito Soares, left in March 2014 upon completion of his four-year mandate. By law, the government must propose the election of the new commissioner “up to 30 days before the end of the term of office,” but the government presented two candidates in June.

Parliament failed to select one of the two names recommended by the government, and the process was to continue in the following weeks. Eventually, in mid-July, Aderito Antonio Tilman was elected as the new commissioner.

Fausta da Costa, program manager for Lalenok Ba Ema Hotu, a leading civil society anti-corruption organization, said that “This omission suggests that both the government and the national Parliament lack serious political will to eradicate corruption in this country.”

“The public continues to ask whether the government is serious about reaching the National Development Plan and Vision for 2020, but the response is an increasing chain of corruption and nepotism cases,” he said, accompanied by measures against a free, independent press.

** Julio Gil da Silva Guterres is the executive director of Lalenok Ba Ema Hotu. He is also the former director of Centru Jornalista Investigativu Timor-Leste and worked as a radio and investigative reporter for 10 years. In 2005, he received “a laureate of Timor-Leste Investigative Award.”*